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FULBRIGHT & JAWORSKI

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Gerald FOURNAND *et al.*

Serial No.: 10/598,979

Filed: September 15, 2006

For: OPTICAL LENS HOLDER

Group Art Unit: 2837

Examiner: Unknown

Atty. Dkt. No.: ESSR:124US

Confirmation No.: 2813

**CERTIFICATE OF FACSIMILE TRANSMISSION
37 C.F.R. § 1.8**

I hereby certify that this correspondence is being transmitted to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA, 22313-1450, facsimile number (571) 273-8300 on the date below.

December 11, 2007

Date

Mark B. Wilson

PETITION TO THE DIRECTOR UNDER 37 C.F.R 1.181

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 23313-1450

Sir:

Applicants respectfully petition the Director under 37 C.F.R. 1.181 to refund the five-month extension of time fees in the amount of \$2,230.00 paid concurrently with the filing of this Petition in response to the Notification of Insufficient Fees dated May 11, 2007 (the "Notification"). Applicants never received the Notification, as supported by the facts set forth below and as stated in the Declaration of Mark B. Wilson accompanying this Petition, and allege that the Office erred in not mailing the Notification to Applicants' representative.

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The non-receipt of the Notification was discovered on November 14, 2007, when support staff in the office of Applicants' representative reviewed the application record of this application in Private PAIR in response to a docketing entry appearing in Applicants' representative's docketing system for "Status Check for First Office Action." At that time, it was discovered that a Notification of Insufficient Fees dated May 11, 2007, appeared in the image file wrapper of this application. Applicants' representative's support staff then reviewed the docketing records for this application and discovered that on May 14, 2007, Applicant's representative received an official Filing Receipt dated May 11, 2007, but did not receive the Notification of Insufficient Fees dated May 11, 2007 (dated the same date as the Filing Receipt, which Applicants' representative did receive). Applicants' representative's docketing staff scans each piece of mail received from the Office as a matter of course, and the scanned images do not contain a copy of the Notification of Insufficient Fees dated May 11, 2007. Applicants' representative's docketing system also does not contain an indication of the receipt of the Notification.

Since the basic national stage filing fee and declaration were present on December 15, 2006, the date of entry of this application into the national stage, the only missing requirements to complete the processing of this application were the search fee, examination fee, additional claims fee, and surcharge, which Applicants' representative could have easily supplied within the two-month response period of the Notification, had Applicants' representative actually received the Notification. However, since Applicants' representative did not become aware of the existence of the Notification of Insufficient Fees until the response period was in the fifth month following the initial due date for the response, Applicants were required to pay a five-month extension of time in order to avoid abandonment of the application.

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In view of the above, Applicants respectfully submit that the Notification was not mailed to Applicants' representative by the Office and request that the Director refund Applicants' payment of the five-month extension fee in the amount of \$2,230 paid on December 11, 2007, in connection with the Response to Notification of Insufficient Fees filed on that date.

Respectfully submitted,



Mark B. Wilson
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Date: December 11, 2007

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